REMARKS

Claims 133-153 remain pending and under consideration. Claims 133, 140, and 147 are independent claims. Claims 29-38 have been cancelled and Claims 133-153 have been added in response to Examiner rejections. Claims 1-28 and 39-132 drawn to non-elected inventions were previously cancelled. Reexamination and reconsideration of the application, as amended, are hereby respectfully requested.

Claim Summary

As an aid to the Examiner, the following summary of the newly added claims is provided.

Independent Claim 133 substantially corresponds to cancelled Claims 29 and 32. Claims 134-139, dependent on Claim 133, substantially correspond to cancelled Claims 30, 31, and 35-38.

Independent Claim 140 substantially corresponds to cancelled Claims 29 and 33. Claims 141-146, dependent on Claim 140, substantially correspond to cancelled Claims 30, 31, and 35-38.

Independent Claim 147 substantially corresponds to cancelled Claims 29 and 34. Claims 148-153, dependent on Claim 147, substantially correspond to cancelled Claims 30, 31, and 35-38.

Claim Rejections under 35 USC § 101

Examiner has rejected Claims 29-38 under 35 USC §101 as being directed to non-statutory subject matter, for failing to incorporate the technological arts sufficiently to constitute a process in the useful arts.

The rejection is believed overcome since it is respectfully submitted that Claims 133-153 are directed to statutory subject matter. Specifically, independent Claims 133, 140, and 147 each recite that the methods steps of reading, comparing, identifying, enumerating, computing, determining, and updating are performed by means of a programmed electronic processor, in conjunction as needed with a readout device or a storage medium operatively coupled thereto. A programmed electronic processor may be construed as any electronic component that executes a programmed instruction set, such as processors found within any of the devices recited in, *inter alia,* paragraphs

[0018], [0019], [0027], [0038], [0040], or [0042] of the specification. It should be noted that the phrase "electronic processor" is *not* intended to encompass a human being or human nervous system.

Claim Rejections under 35 USC § 103

Examiner has rejected Claims 29-38 USC §103 as being unpatentable over Kalyan (US6826538) in view of Kutargi (US6816972), Abbott (US6791580), Saunders (US6738364), and/or Kocher (US6652455).

The rejection is believed overcome since it is respectfully submitted that Claims 133-153 patentably distinguish over Kalyan, Kutargi, and Abbott. In particular:

Examiner has stated that:

> Abbott et al disclose quantitatively evaluating the integrity rating for the data product by using (e.g. an age attribute evaluation see col. 13), which results in an age satisfied or age not satisfied rating for the data. It would be obvious to modify Kalyan et al. to include the features of ... Abbott et al because the motivation being ... Abbot et al will insure [sic] non outdated products will ultimately end up with a consumer.

Applicants respectfully submit that these assertions made by the Examiner are not pertinent to the Claimed subject matter. The "age satisfied" or "age not satisfied" ratings recited in Abbott is not a "quantitative data integrity rating" as recited in Claims 133, 140, and 147. The age ratings recited by Abbott are neither "quantitative", nor are they "data integrity ratings". The age ratings of Abbott are only qualitative (i.e., satisfied or not satisfied), but are not quantitative. A quantitative age rating would include a numerical value for the age of the data, which is not disclosed, taught, or suggested by Abbott. Furthermore, an age rating, whether quantitative or qualitative, is not a data integrity rating. The issue addressed by the claimed invention is not the age of the data product, but the integrity of the data on the data product (in terms of, *inter alia,* usability, readability, reproducibility, and so forth, *quantitatively* evaluated). An old data product might have perfect, flawless, uncorrupted data, while a new data product may have imperfect, flawed, or corrupted data. Age is not a measure of data integrity for a data product. The disclosure of an age rating in no way teaches, suggests, or motivates the computation or use of a data integrity rating generally, or the computation or use of a

quantitative data integrity rating specifically. Since steps and limitations recited in Claims 133, 140,and 147 are not present in the references relied on, Applicants respectfully submit that rejection under 35 USC § 103 is improper, and respectfully request withdrawal of the same.

Further regarding Claim 133, 140, and 147, none of the references discloses, teaches, or motivates the use of a quantitative data integrity rating to determine a purchase price or a selling price for a data product. Each of Claims 133, 140, and 147, requires the use of the quantitative data integrity rating, in conjunction with one or more other factors, for determining the purchase price and the selling price. Since limitations recited in Claims 133, 140, and 147 are not present in the references relied on, Applicants respectfully submit that rejection under 35 USC § 103 is improper, and respectfully request withdrawal of the same.

Further regarding Claims 133, 140, and 147, none of the references discloses, teaches, or motivates any "enumeration" of data sets, as variously recited in these claims. Enumeration of data sets that are flawed in some way (unreadable, erroneously read and uncorrected, or erroneously read but corrected) is necessary for computation of the quantitative data integrity rating. Since these steps variously recited in Claims 133, 140, and 147 are not present in the references relied on, Applicants respectfully submit that rejection under 35 USC § 103 is improper, and respectfully request withdrawal of the same.

Regarding Claim 32 (substantially corresponding to Claim 133), Examiner has stated that "Abbott et al disclose as attribute not found condition which is read as a condition unreadable which is used in the rating". Applicant respectfully disagrees with the conclusion that "not found" is somehow equivalent to "unreadable". Throughout the specification it is made quite clear that "unreadable" (as recited in Claim 133) refers to data that is present on the data product, but cannot be read due to some defect of the data product. This is in no way equivalent to a "not found" condition, wherein data to be read is simply not present. The disclosure of a "not found" condition does not teach, suggest, or motivate use of an "unreadable" condition in computing a quantitative data integrity rating. Since limitations recited in Claim 133 are not present in the references relied on, Applicants respectfully submit that rejection under 35 USC § 103 is improper, and respectfully request withdrawal of the same.

Regarding Claims 33 and 34 (substantially corresponding to Claims 140 and 147, respectively), Examiner has stated that "Abbot et al disclose data product includes [sic]

error correction codes (see col. 30 lines 7 et seq. Abbott et al uses the existence of any such error codes line 46 calculates a rating value based on the received information." Examiner has further stated, "Regarding the feature of over-sampled rating as an attribute, official notice is taken regarding the known use of this feature as a quality control feature as evidenced by Saunders col. 3 lines 60 et seq."

First, Applicants are unclear as to how and where Abbott discloses error correction codes. A computer search of the text of Abbott failed to locate any instance of the words "correction", "correct", or "corrected", nor were any instances located of the juxtaposed words "error" and "code". Abbott does disclose detection of various error conditions for determining computer program flow during execution, but this is not related to error correction codes provided on recorded data products. Applicants respectfully submit that error correction codes are not disclosed by Abbott or the other references relied on. Since this limitation recited by Claims 140 and 147 are not present in the references relied on, Applicants respectfully submit that rejection under 35 USC § 103 is improper, and respectfully request withdrawal of the same.

Second, Applicants respectfully disagree with the characterization of the over-sampling disclosed in Saunders as evidence that an over-sampled rating is a known attribute for quality control of recorded data products. Saunders discloses use of over-sampling of a transmitted signal for evaluating the quality of RF signals transmitted over a particular wireless communication channel. Such signal quality evaluation is not equivalent to evaluation of data integrity on a recorded data product, and the Examiner has not cited any disclosure that would teach, suggest, or motivate modification or adaptation of the disclosed signal quality evaluation means for quantitatively evaluating data integrity of recorded data products. As such, Applicants respectfully submit that rejection under 35 USC § 103 is improper, and respectfully request withdrawal of the same. Regarding the "official notice" taken regarding the known use of over-sampling for quality control of *recorded data products*, Applicants respectfully request that the Examiner either provide an affidavit under 37 CFR § 104(d)(2) supporting this assertion, or withdraw the rejection.

Regarding Claim 37 (substantially corresponding to Claims 138, 145, and 152), Examiner has stated that "whether the entire disc has the ID data encoded on it or whether each track is so encoded, is deemed a mere repetition of a single concept." Applicants respectfully submit that the Examiner's assertion is not pertinent to the subject matter recited in Claims 138, 145, and 152. These claims recite analysis of the actual *music data* on a CD track to generate identification data unique to that particular

track, and then storing the identification thus generated in a CD information database. The generated identification data may be regarded as a "digital fingerprint" uniquely identifying the track, regardless of modification of more traditional identification data attached to the track (which may be altered without altering the music data of the track). This may be thought of as analogous to identifying a person by analyzing his or her DNA (not readily altered) as opposed to looking at his or her driver's license (readily altered). In any case, none of the references relied on disclose any such analysis of the actual *music data* of a CD track to generate unique identification data. Since steps and limitations of Claims 138, 145, and 152 are not present in the references relied on, Applicants respectfully submit that rejection under 35 USC § 103 is improper, and respectfully request withdrawal of the same.

Conclusion

In view of the above, it is respectfully submitted that Claims 133-153 are in condition for allowance. Reconsideration of the rejections is respectfully requested. Allowance of Claims 133-153 at an early date is earnestly solicited.

Respectfully submitted,

/David S Alavi/

David S. Alavi Reg. No. 40,310
3762 West 11th Ave. 541-686-9462 voice
#408 800-853-6150 fax
Eugene, OR 97402 dalavi@northwestpatent.com